

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
-----X
RUSSELL D. COPELAND,

Plaintiff,

07-CV-8044 (GWG)

v.

**JOINT PROPOSED
SCHEDULING ORDER**

THE VERTICAL ATMOSPHERE INC.,
Defendant.
-----X

Counsel for Plaintiff and counsel for Defendant, having met and conferred pursuant to Fed.R.Civ.P. 26, respectfully submit the following Joint Proposed Scheduling Order:

Date of Initial Conference: May 23, 2008

Appearances:

Neil M. Frank
Frank & Associates, P.C.
Attorneys for Plaintiff
500 Bi-County Blvd., 112N
Farmingdale, New York 11735
(631) 756-0400

Craig A. Lamster
Galvano & Xanthakis PC
Attorneys for Defendant
150 Broadway, Suite 2100
New York, New York 10038
(212) 349-5150

Concise Statement of Issues:

This is an action to recover damages for discriminatory failure to promote and discriminatory discharge on the basis of race and color in violation of state and city human rights law, and to recover unpaid overtime wages pursuant to federal and state wage and hour law.

Deadline to Amend Pleadings:

Motions to amend pleadings or join additional parties shall be made within sixty (60) days of the initial conference.

Dates for Document Requests and Interrogatories and Responses Thereto:

The parties shall propound initial document requests and interrogatories within thirty (30) days of the initial conference and respond to discovery requests within the time prescribed by the Federal Rules.

Depositions:

The parties presently anticipate that at least three (3) non-expert witnesses will be deposed, including but not limited to, Russell Copeland, Tayfun Hekium and Annmarie Marino. Depositions will be completed on or before November 23, 2008.

Non-Expert Fact Discovery:

The parties shall complete non-expert discovery on or before November 23, 2008.

Initial Disclosures:

The parties have exchanged initial disclosures required by Fed.R.Civ.P. 26.

Expert Depositions:

At present, the parties do not anticipate the use of expert testimony. To the extent that expert depositions become necessary they shall be completed within ninety (90) days of the close of fact discovery.

Pretrial Motions and Pretrial Order:

The parties shall follow the Magistrate Judge's Individual Rules with respect to any pre-motion conference, filing or other requirement for dispositive motion, and the Pretrial Order.

Limitations on Discovery/Protective Orders:

Not applicable.

Discovery Issues:

There are presently no issues to which the parties have been unable to reach an agreement.

Fields of Expert Testimony:

Not applicable.

Anticipated Length of Trial:

The parties anticipate that they will require three (3) to five (5) days for trial. Plaintiff has requested a jury trial.

Settlement Conference:

The parties believe it would be most helpful to engage in settlement discussions after depositions have been completed.

“All discovery (including requests for admission and any applications to the Court with respect to the conduct of discovery) must be initiated in time to be concluded by the deadline for all discovery. Any contention that a party has not responded properly to a discovery request must be brought to the Court’s attention immediately and in accordance with the Court’s Individual Practices. Any application for an extension of the time limitations herein must be made as soon as the cause for the extension becomes known to the party making the application. The application must also state the position of all other parties on the proposed extension and must show good cause therefor not foreseeable as of the date of this Order. ‘Good cause’ as used in this paragraph does not include circumstances within the control of counsel or the party. Any application not in compliance with this paragraph will be denied. Failure to comply with the terms of this Order may also result in sanctions.”

Dated: May 22, 2008

Frank & Associates, P.C.
Attorneys for Plaintiff

 s/
Neil M. Frank
500 Bi-County Blvd., 112N
Farmingdale, New York 11735
(631) 756-0400

Galvano & Xanthakis PC
Attorneys for Defendant

s/
Craig A. Lamster
150 Broadway, Suite 2100
New York, New York 10038
(212) 349-5150

So Ordered:

Hon. Gabriel W. Gorenstein